* **THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA**

\+ Writ Petition Nos.20801, 20802, 20803 & 20804 of 1996

% Dated 06-10-2007

K. Surender Rao S/o. K. Nagbushanam,
Factory Employee, R/o. HAL Colony,
Balanagar, Hyderabad & 2 others

… Petitioners

Vs.

$ Government of Andhra Pradesh
Rep. by its Secretary,
Revenue Department, Secretariat,
Hyderabad & another

… Respondents.

! Counsel for Petitioner : Sri P. Venugopal

^ Counsel for Respondents : Advocate General

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>HEAD NOTE:

? Cases referred

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition Nos.20801, 20802, 20803 & 20804 of 1996

Dated: 06-10-2007

Between:

1. K. Surender Rao, s/o K. Nagabhushanam and 2 others.

... Petitioners

and

1. Government of Andhra Pradesh, rep. by its Secretary,
   Revenue Department, Secretariat,
   Hyderabad and another.

... Respondents

COMMON ORDER:

As the point involved in this batch of writ petitions is one and the same, these petitions are disposed of by a common order.

2. Facts, in brief, are: Petitioners in all these writ petitions are vendor and vendees of some sale deeds. They presented the said sale deeds before the second respondent – District Registrar for registration, but the second respondent refused to register the said sale deeds and raised two objections viz., 1) that unless and until a clearance is obtained under the provisions of Act 33 of 1976, no registration can be done; 2) that he received instructions from the first

respondent not to register the lands in question. According to the petitioners, though the said objections are not by way of written order, they represented before the second respondent as to how the lands in question are outside the purview of Act 33 of 1976 and also requested him to furnish a copy of the instructions received by him. Despite their representation, the second respondent kept the documents pending for registration. Assailing the said action, these writ petitions have been filed.

3. A separate counter affidavit is filed on behalf of the respondents in all the writ petitions denying the averments made in the affidavits filed in support of the writ petitions.

4. Heard learned Counsel, Mr. P. Venugopal, and Mr. A. Satya Prasad, learned Special Government Pleader, representing the learned Advocate General for the respondents.

5. Having heard both the learned counsel this Court is of the view that it is not for this Court to go into the various aspects raised on either side. The factual aspects are not at all in dispute. After execution of the sale deeds, the petitioners approached the second respondent and requested him to get the documents registered and the second respondent refused to register the same on two grounds, but the said refusal is not by way of a written order. According to me, the said action on the part of the second respondent is contrary to the statutory requirements. The provisions of Section 71 of the Registration Act, 1908 clearly mandates that the registering authority, if refused to register a document, has to necessarily assign reasons to be recorded. In this context it may be relevant to refer to Section 71 of the Act.

> "**71. Reasons for refusal to register to be recorded: -** (1) Every Sub-Registrar refusing to register a document, except on the ground that the property to which it relates is not situate within his sub-district, shall make an order of refusal and record his reasons for such order in his Book No.2, and endorse the words "registration refused" on the document; and, on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

(2) No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered."

6. From the said provision of law, this Court has no hesitation to come to the conclusion that the action on the part of the second respondent in keeping the documents pending with him and directing the petitioners to comply with the objections raised by him is wholly arbitrary and illegal. When once a document is presented to the registering authority either he has to register the said document or pass an order of refusal recording his reasons, which is the requirement as provided for under the statute,
but not the one as done by the second respondent herein.

7. Further, if the registering officer passed an order as provided for under Section 71 of the Act, refusing to register the documents, petitioners can as well prefer an appeal as provided for under Section 72 of the Act, which is a statutory appeal, and agitate the same before the appellate authority. Hence, this Court is of the view that these writ petitions can as well be disposed of without going into the merits holding that the action on the part of the registering authority i.e. the second respondent in keeping the documents pending without passing any order is definitely contrary to the provisions of law. Accordingly, the second respondent is hereby directed to pass an order forthwith preferably within a period of four weeks from the date of the receipt of a copy of the order, on merits, so that the petitioners may approach the appellate authority as provided for under Section 72 of the Act.

8. With the above directions, these writ petitions are disposed of.
No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.06-10-2007

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L.R. Copy to be marked.

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